

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

A BILL FOR

1 An Act relating to a person's refusal to submit to a chemical
2 test of the person's blood in an operating-while-intoxicated
3 case.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DRAFT

1 Section 1. Section 321J.6, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. The peace officer shall determine ~~which of the three~~
4 ~~substances,~~ whether the person's blood, breath, blood, or
5 ~~urine,~~ shall be tested. Refusal to submit to a chemical test
6 of ~~urine or breath~~ any of the three specimens is deemed a
7 refusal to submit, and section 321J.9 applies. ~~A refusal to~~
8 ~~submit to a chemical test of blood is not deemed a refusal~~
9 ~~to submit, but in that case, the peace officer shall then~~
10 ~~determine which one of the other two substances shall be tested~~
11 ~~and shall offer the test.~~ If the peace officer fails to offer
12 a test within two hours after the preliminary screening test is
13 administered or refused or the arrest is made, whichever occurs
14 first, a test is not required, and there shall be no revocation
15 under section 321J.9.

16 EXPLANATION

17 Iowa's implied consent law authorizes a peace officer to
18 determine whether a person's blood, breath, or urine should be
19 tested for the purpose of determining the alcohol concentration
20 or presence of a controlled substance or other drugs if the
21 peace officer has reasonable grounds to believe the person
22 is in violation of Iowa's operating-while-intoxicated (OWI)
23 laws. Under current law, a refusal to submit to a chemical
24 test of urine or breath, but not blood, is deemed a refusal to
25 submit to testing and the department of transportation uses
26 that evidence of a refusal to revoke the person's driver's
27 license (Code section 321J.9). A person who refuses to submit
28 to testing may also be ineligible for a deferred judgment or a
29 suspended sentence in an OWI case.

30 This bill amends current law to provide that a person's
31 refusal to allow chemical testing of the person's blood is
32 deemed a refusal to submit to testing.